

Marc Brainich, Bar No. 191034
FENNEMORE WENDEL
1111 Broadway, 24th Floor
Oakland, California 94607
Tel: (510) 834-6600 / Fax: (510) 834-1928
MBrainich@fennemorelaw.com

Pro Hac Vice
Cody C. Bourke (Bar No. 46370)
FENNEMORE CRAIG, P.C.
1700 Lincoln Street, Suite 2400
Denver, CO 80203
Tel: (303) 291-3200; Fax: (303) 291-3201

Attorneys for Defendant
LEPRINO FOODS COMPANY

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PATRICK McDONALD,
Plaintiff,

v.

LEPRINO FOODS COMPANY; and DOES 1
through 25, inclusive,
Defendants.

Case No. 2:23-CV-00637-TLN-DB

Originally Filed in San Joaquin County
Superior Court, Case No. STK-CV-UPI-
2022-0007510

**JOINT STIPULATION TO CONTINUE
PRETRIAL DEADLINES: ORDER
THEREON**

Action Filed: August 25, 2022
Trial Date: None

The parties to this action, Plaintiff PATRICK MCDONALD (“Plaintiff”) and Defendant LEPRINO FOODS COMPANY (“Defendant”), by and through their respective undersigned counsel, hereby state the following and agree to enter into the following stipulation:

1. Under the current Joint Stipulation to Continue Pretrial Deadlines; Order Thereon, filed on November 22, 2023, the current deadline for the parties to complete all discovery, except expert discovery, is April 8, 2024. The deadline to serve expert witness disclosures is June 6, 2024, and the current deadline to serve rebuttal expert disclosures reports is July 7, 2024.

2. There is no trial date scheduled for the above-captioned matter.
3. The parties are diligently conducting discovery in this case, including the exchange of Initial Disclosures, serving business records subpoenas to Plaintiff's medical providers and previous employers, and serving and responding to multiple sets of written discovery, and scheduling depositions.
4. Plaintiff's counsel has taken the deposition of four Leprino employees, Toby Paluck, Sajjan Shah, Doug Chitwood, and Jose Damudio.
5. In addition, at Plaintiff's request, Defendant has agreed to produce its employee Jose Cuervas during the week of April 15, 2024 – at least one week after the current fact discovery cut-off of April 8, 2024
6. Plaintiff now resides in the Seattle, Washington area. He has, however, kindly agreed to travel to Sacramento, California, at Defendant's expense, for an independent medical examination ("IME") with Defendant's retained expert orthopedic surgeon Roland Winter, M.D. on April 11, 2024, shortly after the discovery cut-off.
7. In addition, Plaintiff will be deposed in person in Sacramento on April 12, 2024, again shortly after the fact discovery cut-off.
8. Once Plaintiff has been deposed, counsel for Defendant will be in a position to determine which of his medical treaters need to be deposed.
9. In addition, Defendant has encountered difficulties in obtaining medical records from certain out of state medical providers pursuant to subpoena. Plaintiff has kindly provided authorizations for the release of those records, and they are expected to be produced by the end of April, 2024.
10. In addition, the parties have agreed to opt-in to the Court's Voluntary Dispute Resolution Program ("VDRP") after the completion of Plaintiff's IME and deposition. Substantial discovery has been completed, but some additional discovery is still needed in order to provide the parties sufficient information to engage meaningfully in VDRP before incurring expert substantial expert costs and attorneys' fees.

11. For the aforementioned reasons, good cause exists and no party will be prejudiced by the request herein as it is stipulated.

12. Accordingly, Plaintiff and Defendant jointly request that the pretrial deadlines for fact and expert discovery be continued as set forth below:

IT IS HEREBY AGREED, STIPULATED, AND REQUESTED THAT:

1. The current fact discovery cutoff date be extended from April 8, 2024, up to and including July 8, 2024.
2. The current deadline to serve expert disclosures and expert reports be extended from June 6, 2024, up to and including September 6, 2024.
3. The current deadline to serve rebuttal expert disclosures and expert reports be extended from July 7, 2024 up to and including October 7, 2024.
4. The current deadline to file a Trial Readiness Notice, if no dispositive motions are filed, be extended from August 8, 2024 to November 8, 2024.

Dated: April 10, 2024.

ZINK & LENZI

By: /s/ Albert J. Lenzi

Albert J. Lenzi
Attorney for Plaintiff
Patrick McDonald

Dated: April 23, 2024.

FENNEMORE WENDEL

By: /s/ Cody Bourke

Cody Bourke
Attorney for Defendant
Leprino Foods Company

ORDER

Pursuant to the parties' Joint Stipulation, and good cause appearing, the Court hereby orders as follows:

1. The current fact discovery cutoff date be extended from April 8, 2024, up to and including July 8 2024.

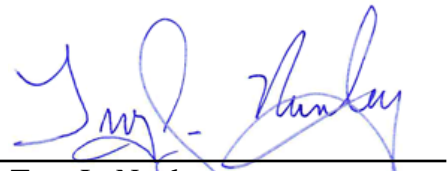
2. The current deadline to serve expert disclosures and expert reports be extended from June 6, 2024, up to and including September 6, 2024.

3. The current deadline to serve rebuttal expert disclosures and expert reports be extended from July 7, 2024, up to and including October 7, 2024.

4. The current deadline to file a Trial Readiness Notice, if no dispositive motions are filed, be extended from August 8, 2024 to November 8, 2024.

IT IS SO ORDERED.

DATED: April 24, 2024.


Troy L. Nunley
United States District Judge

CERTIFICATE OF SERVICE

Patrick McDonald v. Leprino Foods Company, et al.
USDC – Eastern District of California, Case No. 2:23-cv-00637-TLN-DB

I am a citizen of the United States and employed in Alameda County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 1111 Broadway, 24th Floor, Oakland, California 94607.

On April 24, 2024, I served true copies of the following document(s) described as:

JOINT STIPULATION TO CONTINUE PRETRIAL DEADLINES: ORDER THEREON

on the interested parties in the action as follows:

Albert J. Lenzi
Zink & Lenzi
250 Vallombrosa Avenue, Suite 175
Chico, CA 95926
Phone: (530) 895-1234
Fax: (510) 895-1234
Email: al@zinkandlenzi.com

Attorneys for Plaintiff Patrick McDonald

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.. Participates in the case who are not registered CM/ECF users will be served by mail or other means permitted by the court rules.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on April 24, 2024, at Oakland, California.


Lena S. Mason